

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 445 OF 2025**

Dattatray Padmakar Gharat

... Applicant

Versus

State of Maharashtra & Anr.

... Respondents

.....

Mr. Meghshyam Kochrekar a/w. Mr. Saurabh Butala, Manvi Sharma and Mr. Siddhesh Bane, Advocates for the Applicant.

Mr. Ashok Gawai, APP for the State.

Mr. Ganesh Gupta a/w. Mr. Madan C. Khansole, Mr. Surya P. Gupta, Mr. Sahil Ghorpade, Ms. Priyanka Rathod, Mr. Jagrut M. Patil, Sai Manohar Singh, Mr. Shreyas Nanawade i/b. G.G.Legal Associates, Advocates for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.**DATED : 27th MARCH, 2025.****P. C. :**

1. By this application, the applicant is seeking regular bail in C.R.No. 7 of 2024 registered with Uran Police Station for the offence punishable under Sections 354 and 354A(1)(i) of the Indian Penal Code, 1860 and under Sections 3, 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act").

2. It is prosecution's case that on 07.01.2024, the first informant's daughter was playing with bicycle outside of her house. While playing she fell from bicycle. It is alleged that the applicant lifted her with bicycle and while lifting her he touched her private part and inserted his finger in private part.

3. It is contention of learned counsel for the applicant that applicant is behind bar more than three months. Investigation is completed and charge-sheet has been filed. The act committed by the applicant cannot be considered as a intentional as he was helping the victim. Initially, there was no allegations that he inserted finger in the private part of the victim after thought the said allegations are leveled, hence requested to allow the application.

4. It is contention of learned APP that applicant intentionally touched the private part of the victim and inserted finger in her private part. The statement of victim under Section 164 of Cr.PC. has been recorded and she has narrated the incident. The applicant is the neighbour of the victim, if he released of bail, he may threaten the victim and prosecution witnesses and requested to reject the application.

5. It is contention of learned counsel for the respondent No.2 that applicant is a influential person. Initially he was released on bail without hearing the respondent No.2. Thereafter, this Court had directed him to surrender before the Trial Court and after surrendering he is behind bar. Learned counsel further submitted that the provisions under Sections 3, 4, 8 and 12 of POCSO Act along with 5(m)(p) and (l) are applied against the applicant. The punishment for it, is life imprisonment. Learned counsel further submitted that the trial court in his order has observed that there is

lapses in the investigation and applicant is influential person. On earlier, the applicant had committed the same acts with the victim. The Investigating officer has helped the applicant. If applicant released on bail, he may tamper the prosecution evidence, hence requested to reject the application.

6. I have heard all learned counsel. Perused charge-sheet. The allegations against the applicant are that he touched the private part of the victim while lifting her bicycle. Later on, allegations made against the applicant that he inserted finger in private part of the victim. It appears from the record that the act done by the applicant was occurred suddenly. It was intentional or not is a part of trial. Initially, in FIR there is no mention that the applicant had inserted finger in private part of the victim. The applicant is behind bar more than three months. Charge-sheet has been filed against him. Considering these facts, I pass following order.

ORDER

- i. The applicant be enlarged on bail in C.R.No. 7 of 2024 registered with Uran Police Station, on executing P.R.Bond of Rs. 30,000/- on furnishing one or two sureties of the like amount.
- ii. The applicant shall attend the concerned police station once in a month i.e. on first Monday of the month

between 11.00 a.m. to 3.00 p.m. till framing of charge.

- iii. The applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- iv. The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- v. The applicant shall not contact the victim and prosecution witnesses.
- vi. The Trial Court shall not be influenced by the observations made in this order and shall decide the matter on its own merits and in accordance with law.
- vii. The applicant shall not enter in the jurisdiction of Uran Police Station till recording the evidence of victim and first informant.

7. The Bail Application is allowed in the aforesaid terms and is accordingly disposed of. All pending applications, if any, also disposed of.

8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)